The American Revolution: The Real Issue
Guest: Kevin Gutzman
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WOODS: We're gearing up for another Independence Day, so it seemed like a good idea to have you on to talk about the American Revolution. By an interesting coincidence, your course on the American Revolution is now available at LibertyClassroom.com. So all the stars are in alignment for you to be back here as a guest.

Let's start off with an overview of what you're basically saying. The course is "The American Revolution: A Constitutional Conflict." In what sense is it a constitutional conflict? People might be inclined to think: there is no U.S. Constitution yet at that point, so what can he mean?

GUTZMAN: Well, the conflict between the colonies and the mother country was over the shape of the British Constitution. The British, for their part, were insisting on the newfangled product of the Glorious Revolution, which was parliamentary sovereignty – that claimed, as they said in the Declaratory Act of 1766, that Parliament was entitled to legislate for the colonies "in all cases whatsoever." On the other side one had the North American colonists, who were insistent that, no, the Glorious Revolution had not wiped clean the slate of all the precedents showing that they had various corporate rights, that is, that the colonies had a right to be taxed only by their own representatives, that the colonists had the right to trial by jury, that they had the rights of Englishmen, as kings had repeatedly insisted they would always have. So essentially what happened was that once the debt accrued during the Seven Years War led Parliament to try to impose new taxes on the colonists, the colonists responded by saying, well, constitutionally you're not entitled to do that – which the mother country found to be nonsense in light of claim that Parliament could legislate in all cases whatsoever. So that, to my mind, is what the American Revolution was about, and ultimately on the battlefield the American colonists vindicated their claim that they had local rights to self-determination essentially in each colony, now state.

WOODS: You and I are fans of Jack Greene, the colonial historian, who's written an awful lot about the constitutional angle of this particular conflict. As a matter of fact, he has a book that summarizes a lot of his work on this: *The Constitutional Origins of the American Revolution*. I really got to know his thesis in his other book *Peripheries and Center*. But Greene says that as early as the Stamp Act crisis in 1765 you've already got being articulated at least among some colonists the idea that this is not just about no taxation without representation. It's about no legislation without representation. You can see in Patrick Henry's resolves and in a few other places that there are some people who are willing to go that far, and then by the time you get to the Coercive Acts, a lot of people are willing to go that far.

GUTZMAN: Well, that's true, and that's the case I make in the new LibertyClassroom.com course. This should be unsurprising to anybody who is familiar with my training, since my graduate school advisor was Peter Onuf at UVA, and Onuf's graduate school advisor was Jack Greene at Hopkins, so I came by this honestly. I think the best book on the general subject is Greene's *Peripheries and Center*, which to my mind makes an irrefutable case.

Now the reason why this is an interesting take on things is because the overwhelming preponderance of product being poured out by academics these days concerning the American Revolution is based on the unholy academic trinity of race, class, and gender. So you have all kinds of arguments that, no, it was really the Indians who caused the American Revolution, or it was unhappiness about the uppitiness of indentured servants that led to the American Revolution, or in some other way this was about keeping down the lower classes.

I reject that summarily. I don't think those arguments have any real weight. I think actually there is a kind of laying out the thesis ahead of time, and then going out to try to find evidence to prove it in most of these studies. It seems to me that we can profit by taking at face value what these people were saying, which was we don't want you to try to tax us because we think it's unconstitutional. As you say, during the conflict over the Stamp Act, the famous Stamp Act Congress-adopted resolution said that they could only legislated for and taxed by their own representatives. They could not be represented in Parliament, and therefore, that meant that only their colonial legislatures could adopt such measures. Really, this argument didn't change from 1765. It was just that people had not recognized that there was no way to reconcile the two contending positions in 1765.

WOODS: And that leads me to a follow-up question. In my old teaching days, I would occasionally ask students, was such-and-such event inevitable, and the answer was always yes. No student can conceive of events ever having turned out differently from how they actually did. But I wonder if here we have a genuine case of something that was perhaps inevitable. The way I understand it is that there are two competing views of the British Constitution and of this implicit, evolving, imperial constitution. On the one hand you have the American view, which is that the British Constitution is a matter of, certainly some documents, to be sure, but also customary practice, and for a century and a half the customary practice has been self-government on internal affairs for the colonies, and that Parliament regulates trade and external affairs, foreign policy, and we worked out this implicit understanding. Now, the Parliament, for its part, acknowledges that this is indeed the customary way things have gone, but that doesn't mean that the Parliament therefore has no right to interfere in the internal

affairs of the colonies if such intervention should be necessary. So on the one hand you have parliamentary supremacy. On the other hand you have this older, seventeenth-century view of the British Constitution that the colonists have that the British have to abide by traditional practice. Obviously these two are at odds with one another, because what if Parliament violates traditional practice? That to me seems like an inevitable conflict. Or was there some way out?

GUTZMAN: Well, what happened after the fighting started was that the British actually offered to turn things back to the *status quo ante*. They offered, in other words, to repeal the taxing measures and agree not to try to tax anymore. I guess another way of saying that is it finally became clear to people in authority in Great Britain how they had been benefiting from having these colonies even without taxing them, which was something that they had apparently not taken too seriously before.

One thing, too, that we have to notice here is something to do with the personalities involved. King George, although he was in the same office as the current British monarch, had a completely different kind of function from the one that Elizabeth II has today. We didn't actually know this until the 1990s because while in America we have official documents being disclosed almost immediately when the president leaves office, in England it's a family, so King George's private correspondence was not actually made public until over two centuries after the Revolution ended. When it became public everybody could see that George actually had been the one manipulating the politicians and repeatedly, for example, rejecting Lord North's attempts to resign because he had decided that the war was pointless, that it couldn't be won. Before that, King George was the one who insisted that, for example, a tax on tea be kept when the Townshend duties were repealed and so on. He was the one who insisted at an early stage that either the North American colonies were subject to Parliament or they were completely independent, which also was the position that Governor Hutchinson had taken in Massachusetts in disputing the question of Parliament's authority in the late 1760s.

So I think if there had been a king who was not quite so insistent on the principle of the thing, it's possible that they could have just skated by without noticing this disagreement. That actually was the way that the British constitutional system had worked before. It was just about habits, practices, customs, you know, whatever we've done, that's what we're supposed to do, and here we have this unhappy decision of the Parliament in 1766 to say, no, we're not going to have just the *modus vivendi* that we don't ever think we have to describe. Instead, we're going to lay out a firm set of principles, and you have to adhere to them whatever you think.

So I guess the short of it is today – and if you ask me next week, I might give you a different answer – but I do think today that it could have been avoided if only people in authority in Britain had noticed that they really were benefiting from having these North American colonies, and if they had given any thought to the possibility, which they don't seem to have considered a possibility, that they might actually lose the Revolution and find the colonies had become independent – I think that was something they didn't really take seriously as well.

WOODS: Kevin, let's go back to the colonists' understanding of their own position, and here I want to introduce Richard Bland's view because he has an interesting take. He's not alone in this; Jefferson had a similar view. I want to talk about his take regarding the relationship

between the colonies and the King as opposed to the relationship, if any, between the colonies and Parliament. How does he spell out the origins of American settlement?

GUTZMAN: Well, first, Richard Bland was a burgess, senior burgess, when Jefferson entered the House of Burgesses in the 1760s, and actually he was Jefferson's cousin, an elder cousin, a prominent person in the burgess system. You're asking me how he understood the relationship between the colonies and the mother country?

WOODS: Yes.

GUTZMAN: Okay, well, the way he explains things in a pamphlet, a very important pamphlet which Jefferson later would call the first accurately to describe the situation, was that the North American colonies had been founded by colonists who had come to North America in exercise of the natural right to emigrate. This was Bland's great invention. The idea of a natural right to emigrate was a completely foreign idea, as far as I know, to anybody in the world at the time. In World War II, in America, we had a shameful episode where the government jailed Japanese Americans, essentially, during the war because they accepted, more or less, the Japanese government's position that you could not become a former Japanese. If you were Japanese by blood, you were Japanese.

And that was essentially the way that the English understood Englishness, too. You could not become a former Englishman. If you moved to France, lived there for 70 years, and died in your 90s, thinking yourself French, speaking only French, having become a Catholic – they still thought of that as an English grave in France. But Bland said that everybody had a natural right to emigrate, that the fact of having been accidentally born somewhere did not mean that you were morally compelled to remain to that state. So he said the people who had come to North America had come in exercise of this right, which meant that as they left Britain, they kind of sloughed off any responsibility they had had to King-in-Parliament. Now he said, of course, there was a relationship between the British and the North American colonies, and that's through the King, whom they have voluntarily accepted as their own kings when they had the option of doing so, having entered into the state of nature by emigrating.

So as far as he was concerned, the relationship was one of sufferance, or lawyers would say it was defeasible. In other words, if this functionary who was in that position in relation to the colonies at their will ceased to fulfill his function, they could, at will, replace him with someone else. Jefferson, of course, later would lay this out very strongly in his *Summary View of the Rights of British America*, but although Jefferson took an impertinent tone in his pamphlet in 1774, it was essentially the same position, and this would become the American position. By the time Jefferson drafted the Declaration of Independence and took that position, which was essentially that the only relationship between the mother country and the colonies legally was the King, therefore, ignoring Parliament throughout the Declaration of Independence, that had come to be the position basically of all the Whigs in North America, that Parliament was just a foreign legislature.

WOODS: Kevin, assuming we can look at this dispassionately as scholars, how do you assess the plausibility of that claim?

GUTZMAN: It's pretty weak. The idea that the government of England, or in regard to later colonies, Britain, had nothing to do with establishing the colonies, is just unfounded. So there were repeated instances in the colonies in which the mother country provided men, materiel, money, whatever kinds of resources, obviously military protection, superintendents of various kinds, throughout the colonial period. Now, of course, they were not doing what they decided to do after the Seven Years War, which was wholesale to remake the North American government, to remake the constitutional system, to regularize it, and to take steps to subordinate New York, and Massachusetts, and whichever other colonies came to mind. But it's certainly not true that these people in North America were entirely separate from Britain or that they had no relationship to the Parliament.

WOODS: Well, there was certainly no British authority who thought that that was what was taking place when the colonists, or the would-be colonists, emigrated.

GUTZMAN: No, we don't have any reason to think that the colonists thought that either.

WOODS: It seems to me it's not even necessary to make this argument in order to advance the colonial position. You can simply make the traditional constitutional claims that we were making at the beginning. This additional claim is superfluous, isn't it?

GUTZMAN: Well, yeah, notice it's a different claim from the one that Henry made in the resolution, as you mentioned before. There he referred to the charters and to the commissions of various royal governors brought to North America when they became governors of Virginia and so on, and besides, traditional practice between Virginia and the mother country, and so he laid out a classic English lawyer's argument, which of course you'd expect, since he was an English lawyer.

WOODS: I want you to talk about Gordon Wood for a minute. He has a book *The Radicalism of the American Revolution*. What's the thesis of that book? I have a feeling that I've read somewhere that you don't think much of the thesis of that book.

GUTZMAN: Well, the thesis is that the American Revolution was the most radical thing that ever happened. It led to a society that was completely unlike any that had ever been known before. So basically the working out of equality in America over time was all the legacy of the American Revolution.

WOODS: What's your thought about that?

GUTZMAN: Well, it is a grand exercise in *post hoc, ergo propter hoc*, that is, essentially everything that's happened since can be traced to the Revolution. Therefore, the Revolution is responsible for all of it. There's no way to disprove *post hoc, ergo propter hoc* except to say there's no way to prove it, either. It's just an assertion. So he shows you that in time you'd have more or less direct election of presidents instead of having the electoral college. Well, this

results from the American Revolution. And in time you have black people given the vote and made equal citizens; this is the result of the American Revolution. You have all kinds of social leveling, and you have a big, administrative state and so on, and anything that happened after the Revolution is a result of the Revolution. So I find it not very interesting, really. It's just a grand fallacy.

WOODS: But you know what, Kevin? It sounds like what a lot of historians implicitly believe and say about America. That as America becomes more egalitarian, it's living up to its original promise. For example, my Ph.D. dissertation advisor, Alan Brinkley at Columbia, who was an awfully nice guy on a personal level, wrote a textbook called *The Unfinished Nation* – by which, of course, he means that egalitarianism has not fully triumphed in every nook and cranny of society, so therefore it's unfinished. It's the same kind of permanent revolution idea that I guess is implicit in the Gordon Wood book.

GUTZMAN: Well, yeah, and of course, the ultimate manifestation of this tendency is the Marxist historian Eric Foner's book on the Reconstruction period, when he basically decried the postwar Republicans for not having enough dekulakization in the South. It's called *Reconstruction: America's Unfinished Revolution.*

WOODS: That's right.

GUTZMAN: So he wants the full Stalinist program, and he's dissatisfied that it wasn't all implemented at the same time.

I did not know Gordon Wood's book was coming out. When I first saw it was in a bookstore. I happened to be there with somebody else. I think this was in the Spring of 1992, if I'm not mistaken. Seeing the book, reading its title, I said to her: this is going to win all kinds of prizes. And why was that? Just from the title you could tell that the whole point of the book was to say that people who have said that the American Revolution was about conserving local self-government, it was about conserving what was under attack from a distant state – these people are wrong, and so whatever the merits, or lack of merit of the book, it's going to win. Because historical prizes are generally based on the politics of the book. And that, it turns out, is exactly what the book is. I do think Gordon Wood's first book, *The Creation of the American Republic*, is an outstanding book, and I quite like his Franklin biography, but this one is just tendentious. There's nothing else to say about it. I think it's not even really very interesting.

WOODS: Well, Kevin, I was going to have us talk a bit about the Declaration of Independence, obviously, with Independence Day coming up, but all the topics we're talking about today really feed into Independence Day ultimately. So I think I'm going to say to people: if you want to learn more about what Kevin has to say about the Declaration of Independence, which is going to be different from the neocons and the Straussians, then you'll want to head over to our course at LibertyClassroom.com, where you'll hear Kevin talking about this, and you'll get this kind of perspective on it and not the phony baloney, tendentious, agenda-driven version of events that you're going to get from unfortunately so many people in our profession.